

Submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America

WTOwatchACT

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Introduction

This brief submission has been prepared to highlight aspects of the Free Trade Agreement between Australia and the United States of America (henceforth, FTA) which WTOwatchACT deems to be deleterious to Australia. It is able to be so brief because excellent, substantive submissions have been provided by a number of other bodies, including AFTINET (of which WTOwatchACT is a member), the Victorian Greens, Greenpeace, the Australian Conservation Council (ACF) and others. These cover in detail many of the issues which concern us and we endorse these submissions.

Despite the critical nature of this submission, it acknowledges the attempts of Australia's negotiators to protect areas important to Australians, such as the Pharmaceutical Benefits Scheme (PBS) and Australian content in the media despite heavy assault from their United States equivalents. Nonetheless, bureaucrats act under the aegis of the current government and it was clear from the beginning of negotiations that the current federal government was very keen to establish the FTA, as the jewel in the crown of a series of bilateral trade agreements it has negotiated and which are currently under discussion. Furthermore, the process of establishing the United States-Australia FTA has been accelerated by comparison with most trade negotiations. WTOwatchACT is concerned that Prime Minister Howard seems to be prepared to by-pass due processes of the Joint Standing Committee on Treaties and your Committee by travelling to Washington to sign the Agreement prior to both reports being tabled.

There are a number of other concerns about the process, but one addressed in this submission is the foreign policy context of its genesis. There are two aspects to this. First, the FTA is part of a political stance of the Federal Government in relation to the United States which is most clearly expressed in its support for that country's military policies, its approach to terrorism and its military assault on Afghanistan and Iraq and its continued occupation of Iraq. The work of Adrian Rollins (2003) indicates that the trade deal may be Australia's 'reward' from a country which has insignificant levels of trade with us in exchange for loyalty and participation in the Coalition of the Willing and War on Terror.

With this understanding, it is unlikely that negative assessments of the content of the FTA will be addressed by the current government.

But debates about the economic benefits or otherwise of a deal with the United States are essentially moot, because the negotiation is being driven by political, not economic, considerations.

The political and symbolic significance of this deal for both governments is far more important than any economic spin-offs. (Rollins 2003)

A second broad, related issue is the Australian Government's recent zeal in the pursuit of bilateral trade agreements less than ten years after the establishment of the World Trade Organisation (WTO), a multilateral institution which was set up (ostensibly) to allow all countries to benefit from free trade. As trade and investment are touted by institutions like the World Bank and IMF and many aid donors, including Australia, as the means by which poor countries can improve the economic well-being of their populations, evidence of commitment would be better expressed by efforts to even out the playing field of the WTO. Australia's attempts as a leading member of the Cairns Group in the WTO to persuade the United States to reduce its subsidies to agriculture and to cease dumping produce in the global market, undercutting the prices of other countries reliant on primary production proceeds for development, are contradicted and weakened by our entering into an agreement which leaves agricultural subsidies unchallenged.

These broad points explain the context to the FTA which is highly relevant and needs to be addressed by the Senate Committee in the course of the Inquiry.

Specific Concerns

Many aspects of the Agreement have been the subject of considerable public concern since the FTA was first mooted. These are the PBS, media content and services more generally. These have been dealt with at length in the AFTINET and other submissions to the Inquiry. The following brief points are intended to reinforce and add to the comments made in these more substantive submissions.

Pharmaceutical Benefits Scheme

The power of pharmaceutical companies based in the United States was demonstrated during the trade negotiations and despite the assurances of Minister for Trade, Mark Vaile, their imprint on the final agreement is evident. Thus, there are opportunities for interests sympathetic to the Pharmas (and consequently, opposed to the PBS), to lobby for and object to decisions made by the Pharmaceutical Benefits Advisory Committee (PBAC). Most of these opportunities are specified in the side letter from Australia's Trade Minister to the United States Trade Representative.

They include the new conditions of:

- ability to consult with (lobby) officials prior to application for listing 1(a);
- ability to lobby on decisions of the PABC after they are made 1(b); and
- opportunities to present arguments to the PABC while it seeks independent and expert advice related to applications 1(c);

More significantly, the new ability for companies to force a review of PABC decisions increases their opportunities to push the Committee until it agrees to the outcomes they desire.

There is disquiet among the community and medical and consumer health experts about the potential for the prices of medicines to rise (see submission by Dr Faunce). The groups which will suffer most if the price of essential drugs rise are the poor and the elderly, the people that the PBS was set up to protect.

Australian Content in Cultural Products

WTOwatchACT is concerned that failure to explicitly protect public broadcasting in the FTA may open it to challenge from United States. The binding of existing levels of Australian content means that the level can only change by reduction and increases are disallowable.

Australians' understanding of local, national and global events relies upon access to diverse sources of information. Currently, the ABC and SBS provide the best radio and television news and documentary services. It is crucial that their ability to do so is strengthened, not weakened. Furthermore, it is essential that these networks are protected from challenges through challenges by United States broadcasters that public ownership restricts trade.

Services

Many concerns arise from the FTA's approach to public services. All of Australia's laws and policies on services at all levels of government are threatened by the agreement unless they are listed as reservations. Because few services provided by government are now "not supplied on a commercial basis or in competition with one or more service providers", they could be seen as subject to the agreement.

Furthermore, Australia's qualifications, licensing and technical standards for services "cannot be more burdensome than necessary to ensure the quality of the service" unless they are specifically reserved.

These include **water** - currently in the 'stand still category' which means that state and local government regulation cannot be changed without the threat of a challenge. Furthermore, public water services may not be protected since some are delivered on a commercial basis.

ACF fears that national parks and other protected areas may be threatened; the truth is, we do not know the potential impact of the FTA on our environment and environmental services, since no environmental impact studies have been conducted.

Nor do most Australians know that services such as education, health, energy and postal services may be threatened, since public debate has focused on sugar farmers (who have been richly compensated for 'missing out', unlike other producers whose potential benefits are dubious, according to many economic analysts), cultural services and the PBS.

Since the FTA has far-reaching implications, it should be subjected to intensive and prolonged public debate before its signing.

Conclusion

Few independent economic analyses suggest that Australia will benefit economically from the FTA to an extent which compensates for what we stand to lose. Yet the Prime Minister and others in his government have refused to address any of the criticisms, giving Australians a sense of inevitability about the agreement. Ironically, we may have to rely upon the United States Congress to do the job our government should do, in circumstances where the United States has more to gain from the agreement than we do. The FTA will be subject to more scrutiny by both Houses of the United States parliament than our own. Consequently, WTOwatchACT thanks the Senate Committee for taking the trouble to conduct an Inquiry into the impacts of the FTA, and sincerely hope that your conclusions are given the attention that they deserve by the Government.

Reference cited

Rollins, Adrian 2003: Free trade deal about politics, not economics, Canberra Times (November, date not recorded)